

JUL 05 2013

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

NICHOLAS BARBATI,	)	CASE NO. 7:13CV00048
	)	
Petitioner,	)	
	)	FINAL ORDER
v.	)	
	)	
WARDEN, USP LEE COUNTY,	)	By: Glen E. Conrad
	)	Chief United States District Judge
Respondent.	)	

In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

that petitioner's motion for summary judgment (ECF No. 25) is **DENIED**; the respondent's motion to dismiss (ECF No. 33) is **GRANTED**; and this action is stricken from the active docket of the court.

Further, finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

ENTER: This 5<sup>th</sup> day of <sup>July</sup>~~June~~, 2013.

  
\_\_\_\_\_  
Chief United States District Judge